The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 41

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER CLEMMET MacLEOD BECK, JONATHAN MICHAEL BERKE, JOEL A. JOHNSTONE, ROBIN MARIE MITCHELL, JAMES KARL POWERS, MARK FRANKLIN SIDELL, and CHARLES DAZLER KNUFF

Appeal No. 2004-1702
Application 09/182,745[1]

ON BRIEF

Before KRASS, BARRETT, and BARRY, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the non-final rejection of claims 1-20.

We reverse.

[1] Application for patent filed October 28, 1998, entitled "Method and Apparatus for Building Multimedia Applications Using Interactive Multimedia Viewers," which claims the priority benefit of several U.S. and Japanese applications.

BACKGROUND

The invention relates to an Interactive Multimedia Viewer (IMV) software module having a code set for accessing and presenting media code from multimedia files and an editable layer allowing a programmer to program selective control of access by the IMV to the multimedia files, and a method for assembling an Interactive Multimedia Application (IMA) containing an IMV.

Claim 1 is reproduced below.

> 1. In an object-oriented programming interface for use by a programmer in a computer readable medium, a software Interactive Media Viewer (IMV) module, comprising:
>
> a code set adapted to access and present media code from multimedia files stored in a data repository; and
>
> an editable layer allowing the programmer to program selective control of access by the IMV to the multimedia files;
>
> wherein the multimedia files include at least telephony, interactive voice response (IVR), and e-mails, and the programmed selective control in the editable layer restricts selected multimedia files from being accessed by the IMV.

THE REFERENCES

The examiner relies on the following references:

Goetz et al. (Goetz)	5,956,729	September 21, 1999 (filed September 6, 1996)
Syeda-Mahmood (Syeda)	5,983,218	November 9, 1999 (filed June 30, 1997)
Gill et al. (Gill)	6,052,514	April 18, 2000 (filed January 18, 1995)

THE REJECTIONS

Claims 1, 2, 6, 7, 16, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Syeda and Gill.

Claims 3-5, 8-15, and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Syeda and Gill, further in view of Goetz.

We refer to the rejection (Paper No. 36) (pages referred to as "R__") and the examiner's answer (Paper No. 39) (pages referred to as "EA__") for a statement of the examiner's rejection, and to the brief (Paper No. 38) (pages referred to as "Br__") for a statement of appellants' arguments thereagainst.

OPINION

The claims are directed to "an object-oriented programming interface for use by a programmer in a computer readable medium [including] a software Interactive Media Viewer (IMV) module" (claim 1); a "programming application for creating an Interactive Multimedia Application (IMA), in a computer readable medium ... [including an] Interactive Multimedia Viewer (IMV) software module" (claims 6 and 11); and "a method for assembling an Interactive Multimedia Application (IMA)... [including an] Interactive Multimedia Viewer (IMV) software module" (claim 16). Independent claims 1, 6, and 11 recite the following relevant limitations of the IMV (or minor variations thereof): (1) "a code set adapted to access and present media code from multimedia

files stored in a data repository"; (2) "an editable layer allowing the programmer to program selective control of access by the IMV to the multimedia files"; and (3) "the programmed selective control in the editable layer restricts selected multimedia files from being accessed by the IMV." Independent claim 16 recites limitation (1) and recites "editing an editable layer of the at least one IMV by programming limitations restricting access by the IMV to preselected multimedia files" in place of limitations (2) and (3). The invention is described with respect to Figs. 10 and 11 in the specification at page 47, line 3, to page 49, line 2; page 51, line 14, to page 52, line 14; page 52, lines 21-29; and page 53, lines 25-29.

The examiner finds that Syeda does not teach a "a code set adapted to access and present media code from multimedia files stored in a data repository," but the examiner reasons (R4):

> Syeda can perform accessing and rendering media from multimedia files stored in a data repository and provides the *interactive dialog for accessing and rendering multimedia data* (col. 4, lines 4-30).
>
> It would have been obvious to one of ordinary skill in the art at the time [] the invention was made to have modified Syeda to include the code set to perform said accessing and rendering and the Interactive Multimedia Viewer because of the following reason. The ability of performing accessing and rendering of Syeda implies that the software program in Syeda should include related software modules as well as associated codes implemented to perform these functions. Further, accessing and rendering *multimedia data* via the *interactive* dialog suggests that the application in Syeda be a Interactive Multimedia Application.

The examiner finds that Syeda does not disclose limiting access to preselected media files, but finds that Gill discloses limiting access to preselected media files based on user access privileges (R4). The examiner concludes that it would have been obvious to combine Gill into Syeda since the combination would enhance the security of data repositories (R4-5).

Appellants argue that claim 1 is for an object-oriented programming interface for use by a programmer and claim 16 is a method for assembling an Interactive Multimedia Application (IMA), where the IMA actually interfaces with a database (Br9). It is argued that Syeda teaches an application for accessing various databases, but "Syeda does not teach a method for assembling an application for accessing various databases" (Br9). It is noted that the examiner finds that Syeda teaches an application for accessing a database and also teaches assembling an Interactive Media Application (IMA) which interfaces with a database, at column 5, line 20 to column 6, line 42, and the examiner reproduces the referenced paragraph of Syeda offering no further explanation of how the claimed limitation reads on Syeda (Br9-10).[2] Appellants discuss each of the emphasized portions of

[2] We note that appellants are apparently referring to the final rejection (Paper No. 33) entered February 21, 2003, rather than the rejection appealed from (Paper No. 36) entered June 6, 2003, because the rejection of Paper No. 36 does not quote from Syeda and states that Syeda teaches "assembling an application," not "assembling an interactive multimedia application" as in Paper No. 33. Nevertheless, the examiner's

Syeda and argue that "Syeda does not teach an IMA as disclosed and claimed, nor a method for assembling said IMA" (Br10). It is argued that the meta-database in Syeda is not an application or software module as claimed (Br11) and the categorization of databases in the meta-database has absolutely no relevance to assembling an application using software modules as claimed (Br12). It is argued (Br12): "Appellant points out that appellant's invention specifically teaches and recites claims for assembling an application (computer software) for accessing databases. The Examiner must therefore provide prior art that not only *has* software for accessing a database, but a method for assembling the application or software."

The examiner agrees that the meta-database in Syeda is not an application or software module. The examiner states (EA9): "[I]t is also clear that the features of accessing and presenting the multimedia files stored in the database repositories in Syeda teach that an *Interactive Multimedia Application* is a part of the system of Syeda. Since Syeda has the capability of performing the functionalities of an Interactive Multimedia Application, Syeda system does disclose the software modules for an Interactive Multimedia Application" (EA9).

---

reasoning appears unchanged and the examiner relies upon the same portion of Syeda.

There are two types of claims: (1) the "programming interface ... [including] a software Interactive Media Viewer (IMV) module" (claim 1) or the "programming application for creating an Interactive Multimedia Application ... [including an] Interactive Multimedia Viewer (IMV) software module" (claims 6 and 11) embodied in a "computer readable medium"; and (2) "a method for assembling an Interactive Multimedia Application (IMA)... [including an] Interactive Multimedia Viewer (IMV) software module" (claim 16). We take claim 1 as representative of the IMV claims and consider method claim 16 separately.

Syeda discloses multimedia database sites 8 which can be searched by the search agent 5 and refining module 7 with the aid of meta-database 4 (see Fig. 2 and corresponding description). Although the examiner forms the rejection in terms of obviousness, the examiner really impliedly finds that Syeda inherently has a "code set adapted to access and present media code from multimedia files stored in a data repository" because Syeda performs the claimed "access and present" functions. We agree. Syeda must inherently have a program to perform the functions, which can be called a "code set."

Syeda does not disclose control of access to the multimedia files. Gill discloses controlling access to publication information and publication data using a user's logon name and password (col. 10, line 57, to col. 11, line 35). "The

publication data can include text, image data and/or layout data for a particular publication item" (col. 2, lines 8-9), which we interpret to broadly be multimedia files. We agree with the examiner that it would have been obvious to apply the access control teachings of Gill to Syeda since it was notoriously well known in the art to provide access control to computers and databases. And, we find that there must inherently be some program code to control access. However, the claims require more than just access control, and we do not see how Gill meets the limitations of: (1) "an editable layer allowing the programmer to program selective control of access by the IMV to the multimedia files"; and (2) "the programmed selective control in the editable layer restricts selected multimedia files from being accessed by the IMV." There is no teaching in Gill of an "editable layer" that allows a "programmer" to "program selective control." Instead, the selective control of access appears to be accomplished by built-in access control function using a logon ID and password. Although appellants' arguments are very general and do not mention Gill or focus on these limitations, we cannot ignore major limitations which constitute over half of the claim limitations. "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). We do not find where the examiner addresses these particular

limitations and we can only address the reasoning in front of us. Goetz does not cure the deficiencies of Syeda and Gill with respect to the editable layer. For these reasons, the rejections of claims 1-15 are reversed.

Method claim 16 contains the limitation of "editing an editable layer of the at least one IMV by programming limitations restricting access by the IMV to preselected multimedia files," which is similar to the two limitations of: (1) "an editable layer allowing the programmer to program selective control of access by the IMV to the multimedia files"; and (2) "the programmed selective control in the editable layer restricts selected multimedia files from being accessed by the IMV." Again, we do not find where the examiner addresses the particular limitations of claim 16. Although appellants argue that "[t]he Examiner must therefore provide prior art that not only *has* software for accessing a database, but a method for assembling the application or software" (Br12), we would probably consider the method steps to be inherent, or at least obvious, if the IMV software module including the editable layer restricting access would have been obvious. However, since the rejection does not establish the obviousness of an editable layer restricting access, and since Goetz does not cure the deficiencies of Syeda and Gill, we reverse the rejections of claim 16-20.

CONCLUSION

The rejections of claims 1-20 are reversed.

REVERSED

ERROL A. KRASS
Administrative Patent Judge

LEE E. BARRETT
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

Appeal No. 2004-1702
Application 09/182,745

CENTRAL COAST PATENT AGENCY
P.O. BOX 187
AROMAS, CA 95004